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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SEKETHA WONZER and KEVIN DOZIER, Plaintiffs, -against- DANIEL HERNANDEZ a/k/a Tekashi 6ix 9ine, Defendant.	Case No. 1:20-cv-10836-JPC Judge John P. Cronan Magistrate Judge Jennifer E Willis
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DECLARATION OF ROBERT S. MELONI

ROBERT S. MELONI declares under penalty of perjury as follows:

1. I am the attorney for Defendant Daniel Hernandez a/k/a Takashi 6ix x 9ine (“Defendant”).
2. I make this declaration as part of Defendant’s submission to this Court’s post-default inquest on damages.
3. Attached as **Exhibit A** is a thumb drive containing the entire video as originally posted on TMZ (“TMZ Video”) (**Exhibit A-1**) that contains both the interior security video tape from the building located at 264 West 40th Street in Manhattan and the video taken from outside the building by Defendant. I personally downloaded the TMZ video from its website, and I attest that I have made no alterations in the original version provided

as Ex. A-1 to this Court. A second version of the video has been edited by Defendant's counsel to show the intercuts, explained below, between the building's interior security video and the Defendant's exterior video so that the Court can view it as a continuous chronological stream (**Exhibit A-2**). I attest that other than the intercuts noted herein, the video remains at its original length and without other alterations. **Exhibit A** (thumb drive) also contains an MP4 file marked as **Exhibit A-3**, an interview Plaintiff Wonzer gave on TMZ on December 19, 2019. See also <https://www.tMZ.com/2019/12/19/skyy-daniels-tekashi-6ix9ine-victim-happy-not-home-xmas-bankrupt/>.¹

4. Attached hereto as **Exhibit B** is a true and correct copy of the Declaration of Daniel Hernandez, sworn to March 7, 2022.

5. Attached hereto as **Exhibit C** is a true and correct copy of the Declaration of Justin D. Kobay, CPA, Defendant's accountant and business manager, sworn to March 10, 2022, with exhibits.

6. Attached hereto as **Exhibit D** is a true and correct copy of the report of Defendant's psychological expert, Dr. Stephen H. Dinwiddie, MD, for Plaintiff Kevin Dozier.

7. Attached hereto as **Exhibit E** is a true and correct copy of the report of Defendant's psychological expert, Dr. Stephen H. Dinwiddie, MD, for Plaintiff Seketha Wonzer.

8. Attached hereto as **Exhibit F** is a true and correct copy of the Curriculum Vitae of Defendant's psychological expert, Dr. Stephen H. Dinwiddie, MD.

1. The Court may take judicial notice of websites pursuant to Federal Rule of Evidence 201. See *May v. Sony Music Entertainment*, 389 F.Supp.3d 169 (S.D.N.Y. 2019). Since the TMZ interview was given by Ms. Wonzer herself, it is not subject to reasonable dispute.

9. As the accompanying memorandum of law demonstrates without cavil, although the default judgment establishes the Defendant's liability, it does not establish the damages at issue, which Plaintiffs must separately plead and prove with admissible evidence.

10. As part of Defendant's submission on the issue of damages, I request that the Court review the only video of the event on the evening of April 3, 2018 available, which has been referred to in this action in the Complaint, paragraph 15, and is incorporated therein by reference.

THE TMZ VIDEO:

11. An examination of the TMZ Video using the second counter along the bottom of the video establishes a few very important facts that go directly to the issue of damages on this inquest – *i.e.*, the bases of Plaintiffs' claims of damages for emotional distress – including the primary factors of the egregiousness of the event and Defendant's roll in it. It establishes without discrepancy the following:

a. the entire event lasted, at most, 10 seconds for Plaintiff Wonzer during which she was not physically accosted by any of the five gang members, before she ran out of the building and down the block.

b. There was only one Nine Trey Gang member with a handgun, and he never pointed it at either Plaintiff, instead keeping it pointed down at the ground throughout the whole event.

c. The entire event lasted, at most, 26 seconds for Plaintiff Dozier, not the 2-3 minutes he claims, during which time he was not physically assaulted beyond one of the gang members placing his left hand on Dozier's right shoulder and later, a different gang member relieving him of his personal belongings and/or money without any physical violence.

The Building Interior Security Video:

12. The TMZ Video opens with the building's interior security camera footage. The upper left corner shows that the video is recorded on 4/3/18 and 4:57:54 pm. *See* Ex. A.

13. The following is a description of that footage:

Starting the TMZ video frozen at **0:00:00**: You can see a man in a dark jacket standing just inside the lobby doors of the small vestibule, holding the right lobby door open with his left hand, waiting for the four person party inside the lobby – Wonzer, who is standing beside a man I believe is Darryl Johnson, professionally know as DJ Thoro (“Baseball Jacket Man” or “**BJM**”), Dozier, and a man wearing a hooded parka jacket (“**Parka Man**”) (the four collectively referred to as the “Wonzer Party”) – to walk past him from the lobby into the little vestibule leading to the outside doors. The man holding the door is not looking at the Wonzer Party but staring down at the active iPhone screen he is holding in his right hand (“**iPhone Man**”). The iPhone man is not involved in this.

0:00:09: Wonzer hands something to BJM and then steps through the lobby door into the vestibule.

0:00:10: BJM steps aside and lets Dozier walk before him into the vestibule. BJM takes over holding the door open from iPhone Man.

0:00:11: iPhone Man and BJM pass through the door at the same time, with BJM following Wonzer and Dozier into the vestibule and while iPhone Man lets him pass and then enters into the building lobby. iPhone Man is still looking at his iPhone.

0:00:12: Parka Man follows BJM through the lobby door into the vestibule. During this same period, Wonzer and Dozier continue moving towards the outside building doors. Wonzer is moving along the left wall of the interior vestibule by a large wall heating grate

while Dozier continues moving on Wonzer's left (more in the middle of the vestibule) towards the front doors.

0:00:12: Dozier has left the camera shot and is close to the building front glass doors. Wonzer is still in camera shot standing by the left wall grating. BJM has walked into the vestibule and is standing behind Wonzer by the wall grate, and Parka Man, who is seen standing by BJM and still staring at his iPhone screen. BJM has turned back towards the lobby doorway and is saying something to iPhone man through the still open lobby door.

0:00:13-16: Parka Man continues walking towards front doors while looking at his phone. BJM says something to Wonzer and turns back towards lobby door and catches the still closing lobby door before it actually closes and holds it open a bit, while he continues talking to Wonzer, who is now following Parka Man out of the camera shot but seems to stop with just her shoulder remaining in camera shot.

0:00:17: BJM releases the interior lobby door and starts to head towards the front doors after the others.

0:00:17-19: It appears that something (the rain?) is preventing Wonzer and BJM from moving forward through the vestibule towards the building's front doors.

0:00:20-21: BJM appears to be looking over the Wonzer Party's heads to see what is slowing them from exiting the building.

14. DURING THE FIRST 21 SECONDS OF THIS VIDEO NOTHING HAS HAPPENED TO EITHER OF THE PLAINTIFFS.

Switching To Defendant's Exterior Video:

15. Hernandez's iPhone Camera Footage² establishes that it is taken from a car directly outside the front doors of the building:

0:01:31: If you freeze frame, you can see the first Nine Trey Gang Member dressed in a solid black jacket with black hood ("**Black Jacket**") having already stepped through the right door of the building entrance's double doors. You will see later that this is the only gang member holding a gun. That figure appears to be proceeding directly down the middle of the vestibule towards the lobby doors. You can see him as a tall shadow figure towards the center of the doorway. You can see Wonzer's distinct figure pressed against the left wall of the vestibule to the left of that still shot through the left front glass door.

0:01:33: The Nine Trey Gang Member with a black hooded jacket with white center stripes from hood to back ("**Stripe Jacket**") enters into the same right door and proceeds to follow Black Jacket down the center of the vestibule towards the lobby doors.

0:01:34: The Nine Trey Gang Member with grey sweat jacket ("**Grey Jacket**") follows his other gang members through that right door and down the center of the vestibule towards the lobby doors.

0:01:35: The Nine Trey Gang Member with dark grey jacket with a white hoodie ("**White Hoodie**") follows his other gang members through that right door and towards the lobby doors.

0:01:36-37: The Nine Trey Gang Member with yellow rain mack ("**Yellow Jacket**") walks up to the right door and stands in the doorway facing inside with the outside door still held open.

2. Defendant has confirmed that the video being proffered in Court is the video he shot outside the building at issue on 4/03/2018). See **Ex. B** (Hernandez Decl., ¶12).

Switching to Building's Interior Security Video:

0:00:22-23: BJM back peddles towards the interior lobby doors while Dozier returns from the front of the building entrance back into the camera shot and steps back beside BJM in the upper right corner of the vestibule shot, by the lobby doors. Both BJM and Dozier reach for the lobby door handle, but then drop their hands and step away from the handles. Dozier backs up into the right corner closest to the lobby door hinged side. You can still see a part of Wonzer against the grating on the wall closest to the front door in the lower left frame of the shot.

0:00:24-25: BJM steps towards the front doors, Dozier continues to back himself into that corner and Black Jacket and Stripe Jacket appear in the frame. Parka Man remains perfectly still along the right wall directly under the Sconce wall lamp. He remains as still as a possum the whole event.

0:00:26: Grey Jacket appears in the frame and he and Stripe Jacket push BJM against the left vestibule wall. You can still see Wonzer standing against the wall to the lower left of the frame. No one has touched her. Black Jacket walks towards Dozier. His back is against the indoor lobby doors and he is holding a pistol in his right hand, pointed towards the floor. He places his left hand on Dozier's right shoulder.

0:00:27-28: White Hoodie appears in the frame and goes over to Dozier while Black Jacket, with his gun still pointed at the ground, turns his attention to BJM who is pinned against opposite wall by Stripe Jacket and Grey Jacket. Grey Jacket and Stripe Jacket release BJM and Black Jacket walks over to BJM and they exchange words. The one handgun is still pointed at the ground. Wonzer may be facing their general direction during the verbal exchange between Black Jacket and BJM.

0:00:29-30: Grey Jacket turns towards the front doors and exits the frame. Wonzer immediately disappears from the frame in the same direction towards the front door. White Hoodie appears to be robbing Dozier, although there is no gun and no physical threats or movements. This is where Wonzer makes her escape out the front door by Yellow Jacket. You can match this interior video **0:00:29** to exterior video **0:1:39**.

16. WONZER MAY HAVE WITNESSED WHAT IS HAPPENING IN THE VESTIBULE FOR 8 SECONDS BEFORE ESCAPING AND NOT ONCE DID ANY GANG MEMBER ENGAGE HER OR PULL A WEAPON ON HER, NEVERMIND POINT A GUN AT HER.

Switching To Defendant's Exterior Video:

0:01:39-1:41: Wonzer leaves the left wall of the vestibule, moves to the right door and slides past Yellow Jacket, who is standing in the doorway holding the right door open. He makes no attempt to restrain her.

17. IF THE COURT COUNTS THE SECONDS FROM THE MOMENT BLACK JACKET FIRST ENTERS THE VESTIBULE TO THE MOMENT WONZER EXITS THE BUILDING IT IS A TOTAL OF 10 SECONDS - 0:01:31-0:01:41.

0:01:42-1:43: Wonzer leaves the building, immediately looks to her left and disappears out of the right side of the frame. She could not have seen Defendant sitting in the car filming her. Indeed, she has never alleged under oath that she ever saw Defendant the night of the event.

Switching to Building's Interior Security Video:

0:00:30: Black Jacket leaves the frame in the direction of the front doors. Leaving BJM standing there with Stripe Jacket, and Dozier standing there with White Hoodie.

0:00:34: Dozier appears to hand White Hoodie cash with his right hand.

0:00:35-39: Stripe Jacket appears in frame and appears to push BJM up against the glass lobby doors and may have been trying to go through his pockets. White Hoodie appears to be doing the same to Dozier. Grey Jacket appears in the frame as if to intimidate BJM but never gets close to him or Dozier.

0:00:40-0:48: Stripe Jacket leaves the frame towards the front doors, Black Jacket reappears with Grey Jacket and Black Jacket is jawing with BJM but not touching him and I do not see the gun, although his right hand remains pointed towards the ground. Yellow Jacket is now inside the vestibule and makes a brief appearance at left side of lower frame at **0:00:43**. White Hoodie moves away from Dozier and heads towards the door, lifting his hood up as he faces the front doors. Black Jacket and Grey Jacket turn towards front doors and leave the frame. All the Nine Trey Gang are off frame by this time.

18. As will be demonstrated by reviewing the exterior video, this the same time that the stranger in a grey coat carrying a small bag in his left hand opens the front door. This is also the point for timing purposes when any assault on Dozier had clearly ended.

19. GIVEN THAT THE EVENT BEGAN AT 0:00:22 OF THE INTERNAL VIDEO AND ENDED AT 0:00:48 OF THAT VIDEO, THE TOTAL EVENT FOR DOZIER LASTED, AT MOST, 26 SECONDS.

Switching To Defendant's Exterior Video:

0:02:00: A stranger wearing a grey coat and carrying a small satchel in his left hand ("Satchel Man") opens the right front door of the building and begins to enter the vestibule. You can see that the Nine Trey Gang Members are pretty much stationed as they appear at around **0:00:43** of the Building's Interior Security Video.

0:02:03: Stripe Jacket, Yellow Jacket, Grey Jacket and White Hoodie are standing close to that right door. Note that White Hoodie now has his hoodie up and is facing the front door in the same position as he appeared in the building's internal security video **0:00:45**. You can also see by where Black Jacket was standing, you would not have been able to see him from the street view, as he would have been blocked by Stripe Jacket at this point in the exterior video.

Switching to Building's Interior Security Video:

0:00:48-0:01:00: BJM appears to be calling out after the now retreating Nine Trey Gang Members, which supports Defendant's position that they have left the vestibule and entered the street.

0:00:50-0:01:00: An older woman with white hair ("**White Hair**") comes towards the lobby doors from inside the lobby looking like she is complaining and opens the door to the vestibule. She is talking to both BJM and Dozier. BJM had previously left the frame in the direction of the front doors which suggests he may have gone to see if the Nine Trey Gang Members had left. BJM returns to the lobby doors and appears to be helping Dozier with retrieving his stuff from the floor around him. White Hair holds the lobby door open while staring in the direction of the street.

0:01:00: In the lower left of the frame, you see the top of the head of Satchel Man who entered the front doors at **0:02:00** of the exterior video. The distance from the door to the frame would take less than a second to cover.

0:01:01- -0:01:10: Dozier puts his coat on while BJM speaks with White Hair at the open lobby door and Satchel Man stands and waits for an opportunity to enter the lobby. Dozier disappears off frame towards the front doors (**0:01:09**) and Parka Man begins to move

away from the wall on the right under the wall sconce, where he has been standing motionless. It is clear by the freedom of their movement that the Nine Trey Gang Members are gone.

0:01:11-0:01:18: Dozier returns into frame from the front doors of building and hands BJM something he must have retrieved.

0:01:19-0:01:31: BJM enters the lobby with White Hair and walks back out of frame into the building lobby. Dozier and Parka Man then turn and together exit the frame in the direction of the front of the building. Parka Man was one of the entourage of Dozier and Wonzer, and yet he was never mentioned. And despite witnessing the entire event, he is never mentioned by Dozier or Wonzer and has not provided any evidence in this action. Satchel Man goes to walk in the lobby door while White Hair waits in the lobby and speaks with him. Another woman enters the shot, comes through the lobby past them, and Satchel Man holds the lobby door open as she passes. Satchel Man then walks into the lobby and continues towards the back of the lobby with White Hair.

20. The one-gun theory is supported by p. 26 of the November 26, 2018 Conference transcript, as only one gun was found in the Nine Trey Gang's repossessed car used that night.

21. Also, the November 26, 2018 transcript, at p. 25, confirms that in late September 2018, the Government recovered the "bag of one of the victim's" of the 4/3/2018 incident from Defendant's apartment, which was placed there by Kifano "Shotti" Jordan. A copy of that Court transcript is attached hereto as **Exhibit G**. *See also*, Hernandez Declaration at ¶17.

22. Finally, the video establishes without challenge that Defendant did not actually take part in the actual event, besides waiting out in the car and filming it. He never

entered the vestibule, never carried a gun and never had any direct interaction with either Plaintiff, who only learned of Defendant's tangential involvement after the event had occurred.

23. On December 19, 2019, in a bizarre interview she gave on TMZ on December 19, 2019, Plaintiff Wonzer revealed her true intentions – to bankrupt Defendant: “He needs to be totally financially bankrupt” (00:47-00:50). See **Exhibit A-3**. It is telling that Ms. Wonzer only mentions Defendant in this interview, the only person she did not see on 4/3/2018, rather than the Nine Trey members that were in the lobby where the robbery of Plaintiff Dozier took place.

24. In closing, Defendant respectfully requests that the Court consider this video evidence when assessing the purported damages claimed and not proven by Plaintiffs in their inquest submissions, as it goes directly to the issue of the purported egregiousness of the event, and specifically Defendant's tangential roll in it.

Executed this 11th day of March 2022, in New York, New York.



ROBERT S. MELONI